IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WA.No. 1239 of 2003

AGAINST THE JUDGEMENT IN OP.24435/2000 Dated 11/12/2002
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APPELLANT: RESPONDENT

THE REGIONAL PROVIDENT FUND COMMISSIONER
BHAVISHYA NIDHI BHAVAN, ERANHIPALAM P.O.,
KOZHIKODE - 673 006.

BY ADV. SRI.R.SUDHIR, STANDING COUNSEL, P.F.

RESPONDENT: PETITIONER

VIVEK D.BAGADE, MANAGER OF PARSANTHI
TILE WORKS RESIDING AT CERAMICS ROAD,
KASARGODE - 671 121.

BY ADV. SRI.A.P.CHANDRASEKHARAN
SMT.PRABHA R.MENON
SRI.PUSHPARAJAN KODOTH
SRI.M.KRISHNAKUMAR
SRI.K.JAYESH MOHANKUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

W.A.No.1239 of 2003

Dated, this the 19th day of July, 2007

JUDGMENT

H.L. DATTU, CJ.

This appeal is filed against the orders passed by the learned Single Judge in O.P. No.24435 of 2000 dated 11th December, 2002.

2. The respondent in this appeal had called in question the legality or otherwise of the orders passed by the Regional Provident Fund Commissioner in exercise of his powers under section 14-B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (the Act for short) dated 3rd August, 2000.

3. The learned Single Judge has allowed the writ petition and has waived the damages quantified by the Regional Provident Fund Commissioner. Aggrieved by the said order the respondent in the writ petition has filed the present appeal.

4. The learned counsel appearing for the appellant vehemently contends before us that the learned Single Judge ought not have decided the case on merits since the respondent in the appeal has got an appeal remedy as provided under section 7(i) of the Act. Apart from this, the learned counsel would submit that without assigning any reasons whatsoever, the learned Single Judge ought not have modified the damages awarded by the Regional Provident Fund Commissioner.

5. We do not intend to consider the second legal issue canvassed by the learned counsel for the appellant.

6. Admittedly the respondent in this appeal had called in question the orders passed by the Regional Provident Fund Commissioner in exercise of his

powers under section 14-B of the Act. If for any reason the respondent was aggrieved by the said order, he ought to have filed an appropriate appeal. Without doing so, he had approached this court by filing a writ petition. In our opinion the learned Single Judge at the threshold itself should have relegated the respondent in this appeal to file an appropriate appeal as provided under section 7(i) of the Act. Since that has not been done, in our opinion, the order passed by the learned Single Judge requires to be set aside and accordingly it is set aside. Liberty is reserved to the respondent in this appeal to file an appropriate appeal if he is aggrieved by the orders passed by the Regional Provident Fund Commissioner dated 3rd August, 2000, in exercise of his powers under section 14-B of the Act within two months from today. If such an appeal is filed within the aforesaid period, the appellate authority is directed to decide the appeal on merits without reference to the period of limitation. All the contentions are left open. Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

mt/

H.L. DATTU, C.J. &
K.T.SANKARAN, J.

W.A.No. 1239 of 2003

JUDGMENT

19.7.2007